

WITNESSES FOR LEUT. BECKER UNDER FIRE OF PROSECUTOR

that they had secured legal evidence as to the character of the resort.

The District Attorney's witnesses have sworn that Becker, from his personal knowledge of Rosenthal's establishment, described the place as a gambling house, and that these officers thereupon swore they had been in the house and secured warrants from Chief Magistrate McAdoo.

Rosenthal's anger against Becker, according to the State's contention, was caused by the alleged "fake" raid. Following it Rosenthal began his stories of Becker's alleged partnership and graft, and these stories, the State charges, caused Becker to have the informer "croaked."

Justice Goff opened court two minutes ahead of time, whereat Patrolman Shepard was recalled to the stand.

CROSS-EXAMINATION OF SHEPARD

HARD BEGUN BY MOSS.

Mr. Moss began the cross-examination by having him identify the affidavit he had made in the Police Court when he and Detectives Steinert and White asked for warrants against Rosenthal's gambling house. Mr. Moss read the affidavit in which the detective swore that Herbert Hull, Mr. Rosenthal's law student nephew, was the John Wheelman No. 2 he had seen in the gambling house when he went there for evidence.

Q. (By Mr. Moss) You swore to the affidavit before Magistrate Krotel. A. Yes.

Q. What description did you give the clerk of the police court for John Wheelman No. 2? A. John Wheelman No. 2 was about six feet two inches in height, weighed 175 pounds, had dark hair slicked with gray.

Mr. Rosenthal's nephew is nineteen years old.

Q. Did you say John Wheelman No. 2 was forty-five years old? A. Yes.

Q. Was Herbert Hull such a person as that? A. Herbert Hull was not that size.

Q. Was Herbert Hull the young man you described in your testimony yesterday? A. I didn't testify yesterday.

The witness made the remarkable statement that although he made an affidavit that Hull was thirty-five years old, the person he arrested was a lad of nineteen years.

Q. You testified that this was a straight raid, was it not? A. Yes.

Mr. Moss read a "Tidbit of Shepard's" in which he told John Wheelman No. 2 in more detail as "a middle aged man." This affidavit described a large blond man as John Wheelman No. 2.

TRYING TO SHOW THE RAID WAS A "FAKE."

The prosecution was trying to bring out that the alleged raid was a "fake" raid based upon "imaginary" evidence. He was bringing out that there was a discrepancy in the two affidavits of the former strong arm squad man.

The defendant, Becker, was intensely interested in this evidence and insisted on reading over the two affidavits after each had finished perusing them.

The policeman hadn't been on the stand five minutes before his face was flushed and he was wringing uneasily in the witness chair.

Q. What do you say is the true description of Herbert Hull? A. The last time I saw him he was a young man, twenty years old, five feet seven, fair haired and smooth faced.

Q. Is he the young man Mr. Rosenthal asked Becker not to take her nephew along? A. Yes.

Q. Mr. Shepard, who did you see in that house who looked at all like the man you described as "John Wheelman No. 2"? A. John Wheelman No. 1.

Mr. Moss read the description of John Wheelman No. 1, whom Shepard had described about as Hull really is.

Q. You have just read this description in the affidavit I handed you, haven't you? A. Yes.

Q. Don't you recall that in reality both the men at the wheels were dark complexioned, while Hull is really very light? A. As I now recall it, both the men were dark.

Q. Wasn't it your business to observe the men carefully, so you could identify them and testify against them in court? A. Yes, as best I could.

Q. Before the raid you officers gathered in Pabst's, on Columbus Circle. Did you see Becker telephone before you left there? A. No, sir.

Q. Did you have a warrant for Rosenthal? A. I do not know.

SAYS HE NEVER SAW GAMBLER ROSENTHAL.

Q. Was Rosenthal in the house at the time of the raid? A. I do not know. I never saw the man in my life.

Q. What? You never saw Rosenthal? Were you ever in the Elks Club? A. Yes, but only on Flag Day. That's the only time.

"Have you ever tried to get evidence against Friedman or Bussey's gambling houses?"

Objection sustained and Mr. Moss announced that the cross-examination was at an end, satisfied with Shepard's admissions.

On direct examination Mr. McIntyre asked regarding the eyewitnesses who by the wheelmen at the roulette tables. Shepard said they were the ordinary celluloid kind worn by bookkeepers.

"I want to say," added the policeman, "that there was a clerical error in the affidavit. The man I testified to was John Wheelman No. 2, and vice versa. That was the error of the clerk who made out the papers."

Q. (By Mr. Moss) These eyewitnesses speak of—they did not cover the wheelmen's hair, did they? A. Only on the forehead.

Mr. Moss smiled blandly, since, in his affidavit Shepard had described the color of the hair incorrectly.

Shepard was followed by Policeman James C. White, who, with Policeman Steinert, was charged with "framing up" "Big Jack" Zellig when they accused him of carrying concealed weapons.

White is a sallow-faced young man who wears glasses and looks like a student. His voice is soft and gentle.

After testifying that he had been a policeman for five years he told of his connection with Becker's strong arm squad and the part he played in the Rosenthal raid.

He got his instructions concerning his role as a raider from Becker at Police

Headquarters. He said Margolia, the State's witness, was not present (Margolia had sworn he was) when Becker gave him instructions. White corroborated Shepard in exact detail as to how he had obtained his evidence against Rosenthal's place. A man named Smith—a mysterious Smith alleged to have been a steerer for Rosenthal—introduced White and Steinert to the doorman and got them in.

The witness said he played roulette and that he had noticed about fifteen men in the place. There were two men in charge of the roulette table. Both wore green shades. One of this pair was Herbert Hull, as the witness afterward ascertained. Hull was paying off the winners.

"We were there about an hour," continued White, "and I lost my chips—\$50 worth."

This was the exact sum Shepard had lost in forty-five minutes.

Q. (By McIntyre). Did you see Herman Rosenthal there? A. I did not.

White swore he had informed Becker of his visit to Rosenthal's. Becker had directed him to go to the Tombs Police Court and swear out a warrant.

The witness and Detective Steinert had obtained warrants against four men from Chief Magistrate McAdoo.

WHITE ALSO TELLS OF THE ROSENTHAL RAID.

Q. After you got the warrants, what happened? A. The raid was made on the night of April 12. We met Lieut. Becker and Policeman Shepard at Pabst's. We went to Forty-fifth street, where we got out of the machine at 11 o'clock, and Lieut. Becker ordered us to make the raid.

Q. What did you do? A. Smashed in the doors—two of them—and ran upstairs into the room where I had gambled. A number of persons were there. I took an inventory of the gambling paraphernalia with James Fleming, one of the prisoners. While we were doing that Steinert came and he and I took our prisoners to the Twenty-sixth precinct station.

Q. Did you see Mrs. Rosenthal? A. Yes, on the parlor floor.

Q. Where was Becker? A. Running all over the house.

Q. Did you see them together, or go to the basement together? A. No; I was very busy taking that inventory.

Q. Did you hear Mrs. Rosenthal ask Becker to let Hull, her nephew, go? A. I did not.

Q. Was Lieut. Becker present when the prisoners were arraigned? A. No.

Q. How had Becker been at the arraignment and had talked to Rosenthal.

Q. Before the raid did Lieut. Becker give you a description of the Rosenthal house and tell you to go out and get weapons on the way? A. He certainly did not.

White described the eyewitnesses worn by the wheelmen, the defense using this to show it was difficult for the raiders to describe the men when the descriptions were entered in the affidavits.

On Friday, Aug. 27, were you in the City Prison? A. I was.

Q. On that occasion, Officer White, did you say to Becker: "Chief, I have been looking for you. I have it straight from Whitman's men that they have arrested Louis and he has told everything?"

Q. And did Becker say to you: "Oh, what if they have? There is nothing against us but the testimony of crooks and no one will believe them. Don't worry. It will all blow over and when it has the public will give us a pension for killing that crook, Rosenthal."

A. Positively no. No such conversation occurred.

The policeman was refusing the testimony of the convict-witnesses for the people, Lawyer Hallon, who swore that he had overheard such a colloquy between Becker and White while he dialyzed was a prisoner in the Tombs.

Q. (By Mr. McIntyre) Afterward Hallon swore Becker said: "I tell you when all this sensation is over the public will give me a pension for killing that crook, Rosenthal."

Did Becker say that to you? A. He positively did not.

Q. Was the evidence against Rosenthal's place say you obtained—that was honest and genuine evidence? A. It certainly was.

Q. Was that an honest and genuine raid? A. Yes—positively.

MOSS PUTS THE BECKER RAID UNDER FIRE.

Under cross-examination Mr. Moss made White recount his whole police experience and asked how he got on the Strong Arm Squad. White said he did not know.

Q. Did Lieut. Becker ever tell you he got you appointed to his squad? A. No, sir.

White said he had been a bartender and waiter before going on the force, among his employments being waiter, bartender and floor manager of the Haymarket, in Sixth avenue. He had worked in a number of the all-night restaurants in the Tenderloin district of Sixth avenue. Mr. Moss went after the witness regarding his connection with the Haymarket, and made him describe the notorious dance-hall-bar-room in detail.

"Did you know the character of the people who frequented that place?"

Objection sustained. The two descriptions.

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Q. What were you to do? A. Prevent violence.

Q. Didn't you sit at the long table in the Elks Club that night with Becker and Rosenthal? A. Yes, sir.

Harking back to the peculiar affidavits on which the Rosenthal raid was made, White said he was present when Shepard swung to the affidavit and that he had assisted in giving the descriptions of the men—the inaccurate descriptions noted in the testimony of Shepard.

This point officer to bring Herbert Hull into court.

YOUNG HULL BROUGHT IN TO FACE DETECTIVE.

"I object," said McIntyre, "to the production of anybody. I want allowed that privilege."

"Objection overruled," said the Court. A court attendant brought in young Hull—a short, stocky youth of medium height, who didn't resemble in any particular the descriptions of either "John Wheelman No. 1" or John Wheelman No. 2. He was dressed in a suit and tie, and he recognized "Herbert Hull."

"He's the man who was arrested," came the whispered answer.

The jurors asked upon Mrs. Rosenthal's nephew a full minute before he was allowed to go.

Q. White, did you arrest Jack Zellig in May? A. Yes, in No. 76 Second avenue, for carrying concealed weapons.

"Who was with you?"

An objection was sustained, but later White was permitted to name Steinert and another detective.

Q. Before an examination in the Magistrate's Court, did you and Steinert appear before the Grand Jury? A. Yes.

Q. Did you swear before the Magistrate that you found a revolver in Zellig's pocket? A. Yes. I did find one.

Q. Did you not, on the contrary, find he had no revolver in his pocket? A. I found he did have a revolver.

Q. Did you not swear falsely that Zellig had a revolver? A. I did not.

Q. Was it not that as a prisoner in that connection you were in the City Prison in August, when you talked to Becker? A. Yes, sir.

On direct examination White said that at the time he arrested Zellig he was not a member of the Strong Arm Squad.

Q. Who told you to go after Zellig? A. Inspector Edward Hughes.

Q. (By Mr. Moss) Isn't it a fact that you had been a member of the Strong Arm Squad since the week before Zellig's arrest, and that immediately after the arrest you were detailed back to Becker's squad? A. Yes, sir.

STEINERT ALSO CALLED TO AID BECKER'S CASE.

Detective Charles C. Steinert was called to follow his partner on the stand. John W. Hart led Steinert over the same ground covered by White and Shepard, getting from him also a denial that he had been a member of the Strong Arm Squad when Becker gave him his orders concerning the Rosenthal raid. Steinert had also met the "mysterious Smith" who guided them to the Rosenthal place.

Steinert had purchased and, of course, sold \$50 worth of chips.

"But," said the witness, "I won some chips at first. I continued playing until I had lost the money. I had lost them all I waited and watched Mr. White lose his."

Steinert was not present at the breaking-in, but he got to Rosenthal's house while the raid was still in progress. He went up stairs and saw Becker.

Q. Did you see Lieut. Becker and Mrs. Rosenthal in conversation that night? A. Yes.

Steinert denied that he had conversed with Becker in the bathroom of the Tombs on August 27.

Q. Did you see Lieut. Becker in the bathroom of the Tombs that day? A. I did not.

Q. Was this raid on Rosenthal's place an honest one? A. Yes, sir.

By the Court—What does an honest square raid mean?

Lawyer Hart flushed and sat down without attempting to describe his theory of an honest square raid.

Mr. Moss went after Steinert first very gently and then savagely. The witness was the coolest and quickest of the three policemen who had been called.

Q. (By Mr. Moss) How long have you known Becker? A. About a year.

Q. How did you get on his squad? A. I had been doing my duty five years and had been transferred to foot duty. I wanted some work where I could be at home at night as my wife could not get on at night.

Q. What have you been doing lately? A. I have been arresting rascals and gamblers. I have been going around "framing" men to see if they had guns, investigating disorderly houses and doing excise work.

Mr. Moss then produced Steinert's affidavit—one of the affidavits on which the Rosenthal raid was made. Steinert said he had read the affidavit after it was made and that he had sworn to its contents.

Q. Did you know that Herbert Hull was described by you officers as "John Wheelman No. 2"? A. I thought Hull was described as "John Wheelman No. 1."

"When did you last see Shepard?" asked Mr. Moss.

"Just a moment ago," answered Steinert, his voice dropping to a husky whisper.

"After he had testified and had said 'I have been going around 'framing' men to see if they had guns,'"

shouted Mr. Moss.

"Yes," whispered Steinert.

Mr. Moss read the affidavit to the jury, laying emphasis on the discrepancies of the two descriptions.

MOSS TRIES TO PIN THE WITNESS DOWN.

"Do you say that it is a clerical error, too?" said Steinert. "I did not study it closely."

"Now, look at it closely," requested Mr. Moss, and then tell me if Herbert Hull resembles the man who was described in the affidavit."

"I didn't make that description," parried the policeman.

Q. Answer my question? A. No. It does not.

Q. Now, what was it you discussed with Mr. Shepard in the corridor outside? A. Nothing.

Q. Did you ever meet Becker in the Elks Club? A. Yes, several times. One of those occasions was New Year's Eve. Steinert and a number of other officers were there—members of the Strong Arm Squad.

Rose and Mrs. Rosenthal have sworn it was at this meeting that Becker told his men that Rosenthal was his friend and that he would "go the route" for him.

Was Rosenthal there that night? A. I do not know. I did not know Rosenthal until March.

Q. What were you officers doing there? A. We were police duty.

Q. What! Doing duty in the Elks Club on New Year's Eve? Who testified you to go there? A. Lieut. Becker.

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